

UNIVERSITAS EDUCATION, LLC V. NOVA GROUP, INC., CASE NO. 11-1590-LTS-HBP (S.D.N.Y.)

**Supplemental Affidavit of Service for
Universitas's Motion for Turnover and
Permanent Injunction**

EXHIBIT 5

Michael Barnett

From: Michael Barnett
Sent: Wednesday, October 23, 2013 7:25 PM
To: 'Glenn Duhl'
Cc: Paula Colbath; labelle@halloran-sage.com; tonysiano@aol.com; Carole Bernstein <cbernsteinesq@gmail.com> (cbernsteinesq@gmail.com); Ira Kleiman (ik@briefjustice.com); Matthew J. Brief <mjb@briefjustice.com> (mjb@briefjustice.com)
Subject: RE: Universitas Education, LLC v. Nova Group, Inc., Case No. 11-1590-LTS-HBP (S.D.N.Y.)

Glenn,

Thanks for your e-mail.

In consideration for all Respondents accepting e-mail service through counsel, we propose that Respondents' oppositions be due on November 20 and that our replies be due on December 30. Under this proposal, here's how the full schedule on this motion would look:

- Carpenter opposition to preliminary injunction motion due – **Oct. 25** (already ordered)
- Document requests to Respondents due – **Oct. 28** (already ordered)
- Reply on Carpenter injunction motion due – **Nov. 1** (already ordered)
- Respondents' oppositions on turnover due **Nov. 20** (proposed by me)
- Respondents' document productions due **Nov. 22** (already ordered)
- Order to Show Cause hearing on Carpenter injunction motion – **Nov. 22** (already ordered)
- Depositions on turnover motion to take place **Dec. 2-16** (already ordered)
- Our reply on turnover due **Dec. 30** (proposed by me)

Please let me know if this appeals. I understand that Carole still needs a few more days to determine whether she will be representing Grist Mill Capital and Avon Capital in response to our motion. If all Respondents accept e-mail service and the above schedule is agreeable to all, we can enter into and file a Stipulation on the schedule.

Sincerely,

Michael

From: Glenn Duhl [mailto:gduhl@siegeloconnor.com]
Sent: Wednesday, October 23, 2013 4:50 PM
To: Michael Barnett; tonysiano@aol.com; Carole Bernstein <cbernsteinesq@gmail.com> (cbernsteinesq@gmail.com); Ira Kleiman (ik@briefjustice.com); Matthew J. Brief <mjb@briefjustice.com> (mjb@briefjustice.com)
Cc: Paula Colbath; labelle@halloran-sage.com
Subject: RE: Universitas Education, LLC v. Nova Group, Inc., Case No. 11-1590-LTS-HBP (S.D.N.Y.)

Michael: I am willing to accept service provided that we (all) may serve our responsive papers on November 12, 2013. May I have your agreement? Thank you, Glenn

Glenn A. Duhl, Esq.
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Management employment law and litigation.

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From: Michael Barnett [<mailto:mbarnett@loeb.com>]

Sent: Monday, October 21, 2013 2:38 PM

To: tonysiano@aol.com; Carole Bernstein <cbernsteinesq@gmail.com> (cbernsteinesq@gmail.com); Glenn Duhl; Ira Kleiman (ik@briefjustice.com); Matthew J. Brief <mjb@briefjustice.com> (mjb@briefjustice.com)

Cc: Paula Colbath; labelle@halloran-sage.com

Subject: Universitas Education, LLC v. Nova Group, Inc., Case No. 11-1590-LTS-HBP (S.D.N.Y.)

Dear Counsel:

This afternoon, Universitas Education, LLC filed a turnover motion and motion for permanent injunction, naming the following as Respondents:

- i. Daniel E. Carpenter
- ii. Grist Mill Capital, LLC
- iii. Grist Mill Holdings, LLC
- iv. Carpenter Financial Group
- v. Avon Capital, LLC
- vi. Phoenix Capital Management, LLC
- vii. Grist Mill Trust Welfare Benefit Plan
- viii. Hanover Trust Company
- ix. Charter Oak Trust Welfare Benefit Plan

Based on prior correspondence, we understand these Respondents to be represented by the following attorneys:

- i. Respondents Daniel E. Carpenter, Grist Mill Holdings, LLC, Carpenter Financial Group, Phoenix Capital Management, LLC and Hanover Trust Company – represented by **Anthony J. Siano**
- ii. Respondents Grist Mill Capital, LLC and Avon Capital, LLC – represented by **Carole R. Bernstein**

- iii. Respondent Grist Mill Trust Welfare Benefit Plan – represented by **Glenn A. Duhl**
- iv. Respondent Charter Oak Trust Welfare Benefit Plan – represented by **Ira Kleiman and Matthew J. Brief**

By this e-mail we are attempting to effect service of the motion upon each of the Respondents by e-mail to respective counsel. Please let me know by Wednesday, October 23 at noon if (a) I am misunderstood as to a certain attorney representing a certain Respondent and/or (b) a Respondent who has not already appeared in the action declines to accept service by e-mail.

Please find attached (in a .ZIP file) copies of the papers filed today in support of Universitas' motion, as well as a copy of our letter to Judge Swain enclosing courtesy copies of the papers.

Thank you.

Sincerely,

Michael

From: NYSD_ECF_Pool@nysd.uscourts.gov [mailto:NYSD_ECF_Pool@nysd.uscourts.gov]

Sent: Monday, October 21, 2013 2:08 PM

To: CourtMail@nysd.uscourts.gov

Subject: Activity in Case 1:11-cv-08726-LTS Nova Group, Inc v. Universitas Education, LLC Motion for Miscellaneous Relief

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U.S. District Court

Southern District of New York

Notice of Electronic Filing

The following transaction was entered by Barnett, Michael on 10/21/2013 at 2:08 PM EDT and filed on 10/21/2013

Case Name: Universitas Education, LLC v. Nova Group, Inc.

Case Number: [1:11-cv-01590-LTS-HBP](#)

Filer: Universitas Education, LLC

WARNING: CASE CLOSED on 06/07/2012

Document Number: [308](#)

Docket Text:

MOTION for Turnover and Permanent Injunction. Document filed by Universitas Education, LLC. (Attachments: # (1) Affidavit of Service)Filed In Associated Cases: 1:11-cv-01590-LTS-HBP, 1:11-cv-08726-LTS(Barnett, Michael)

Case Name: Nova Group, Inc v. Universitas Education, LLC

Case Number: [1:11-cv-08726-LTS](#)

Filer: Universitas Education, LLC

WARNING: CASE CLOSED on 06/07/2012

Document Number: [214](#)

Docket Text:

MOTION for Turnover and Permanent Injunction. Document filed by Universitas Education, LLC. (Attachments: # (1) Affidavit of Service)Filed In Associated Cases: 1:11-cv-01590-LTS-HBP, 1:11-cv-08726-LTS(Barnett, Michael)

1:11-cv-01590-LTS-HBP Notice has been electronically mailed to:

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1:11-cv-01590-LTS-HBP Notice has been delivered by other means to:

1:11-cv-08726-LTS Notice has been electronically mailed to:

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1:11-cv-08726-LTS Notice has been delivered by other means to:

Nova Group, Inc

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1008691343 [Date=10/21/2013] [FileNumber=12113890-0] [0020a59b1f02a1e0555e7759aafd64cee2e0a7c8c39d9ac9becc9bc902a7e3ae7816d68583b95d56ee6b1348d05ac16b6fb04b3ae6f75a3055c15afbb424a95c]]

Document description: Affidavit of Service

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1008691343 [Date=10/21/2013] [FileNumber=12113890-1] [b633ee7b3e7da27fe4c571021cc0d0bb886bf1b119cb9312a0414a279ee58cc2a4b68806296a6ee5c042d4bb893a0e0c86eb0a6c8ca399257f6423eab67b2ab9]]

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